

CALENDAR ITEM

C44

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Inverness Yacht Club

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Tomales Bay, adjacent to 12852 Sir Francis Drake Boulevard, town of Inverness, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing walkway, pier, two floating docks, enclosure, unattached piling, and appurtenant facilities.

LEASE TERM:

10 years, beginning April 1, 2017.

CONSIDERATION:

\$660 per year; with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b), section 2004, subdivision (b)(3).

Public Trust and State's Best Interests Analysis:

On May 12, 1997, the Commission authorized a 20-year General Lease – Recreational Use to Inverness Yacht Club ([Calendar Item C62, May 12, 1997](#)). That lease expired on March 31, 2017. The Applicant is now applying for a General Lease – Recreational Use for the existing

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improvements. The subject improvements are privately owned and maintained. The adjacent upland parcel is privately owned and developed. The Applicant, Inverness Yacht Club, is a nonprofit organization created in and operated since 1912. The Club's primary purpose is to promote sailing and environmental protection of Tomales Bay by providing scholarships and by organizing youth sailing and community outreach events.

The walkway, pier, two floating docks and appurtenant facilities are for the docking and mooring of boats. The existing enclosure on the portion of the pier on sovereign land is used by Inverness Yacht Club members staffing sailboat races and is therefore considered a water-related use.

Recreational boating is water-dependent and generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The facilities have existed for many years at this location, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The lease area is located in Tomales Bay, which is a tidally-influenced site vulnerable to flooding at current sea levels; therefore, this area may be at a higher risk of flood exposure given future projection scenarios of sea-level rise. By 2030, the region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). Rising sea levels can lead to increased flooding and larger tidal events, and can affect erosion and sedimentation rates. For example, in tidally-influenced waters such as Tomales Bay, increased

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storms and flooding will likely increase scour, leading to decreased bank stability and structure.

Improvements within the lease area include an existing fixed pier, walkway, and two floating docks. On the portion of the fixed pier on sovereign land, there is a small enclosure that is empty and used to provide shelter to Inverness Yacht Club members staffing sailboat races. The floating docks were recently replaced in 2014 and the plans were reviewed and accepted by Commission staff as repair and maintenance under the terms of the previously authorized lease. The Applicant stated that the lease area does, on occasion, experience storm flooding, but that such events have not affected the improvements. Landward of the lease area is a seawall bulkhead, which abuts the shore/bank. While not part of this lease, this structure is currently in good condition, and the Applicant has plans to strengthen the wall in the next 3 to 5 years to mitigate any future flood/storm-related erosion.

The combined impacts of the projected conditions described above raises the likelihood of damage to structures within the lease area. The floating docks are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, increasing their resiliency to some climate change impacts, but these structures may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of pier facilities. While the fixed pier appears to be in good condition, it may need additional fortification in the future or may need to be heightened to withstand higher levels of flood exposure and sea-level rise. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

Conclusion:

For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Inverness Yacht Club; beginning April 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing walkway, pier, two floating docks, enclosure, unattached piling, and appurtenant facilities, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$660 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7957.1

LAND DESCRIPTION

Two parcels of submerged land situated in the bed of Tomales Bay, near Inverness, lying adjacent to Tide Land Survey 170, patented May 15, 1874, Marin County, State of California and more particularly described as follows:

PARCEL 1 - Pier

All those lands underlying an existing walkway, pier, two ramps, two floating docks, enclosure, hoist and four pilings lying adjacent to those parcels as described in Deed of Reconveyance, recorded February 20, 1974, in Book 2766 at Page 42 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the low water mark of said Tomales Bay.

PARCEL 2 – Unattached Piling

All those lands underlying an existing unattached piling lying adjacent to those parcels as described in Deed of Reconveyance, recorded February 20, 1974, in Book 2766 at Page 42 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/03/17 by the California State Lands Commission Boundary Unit



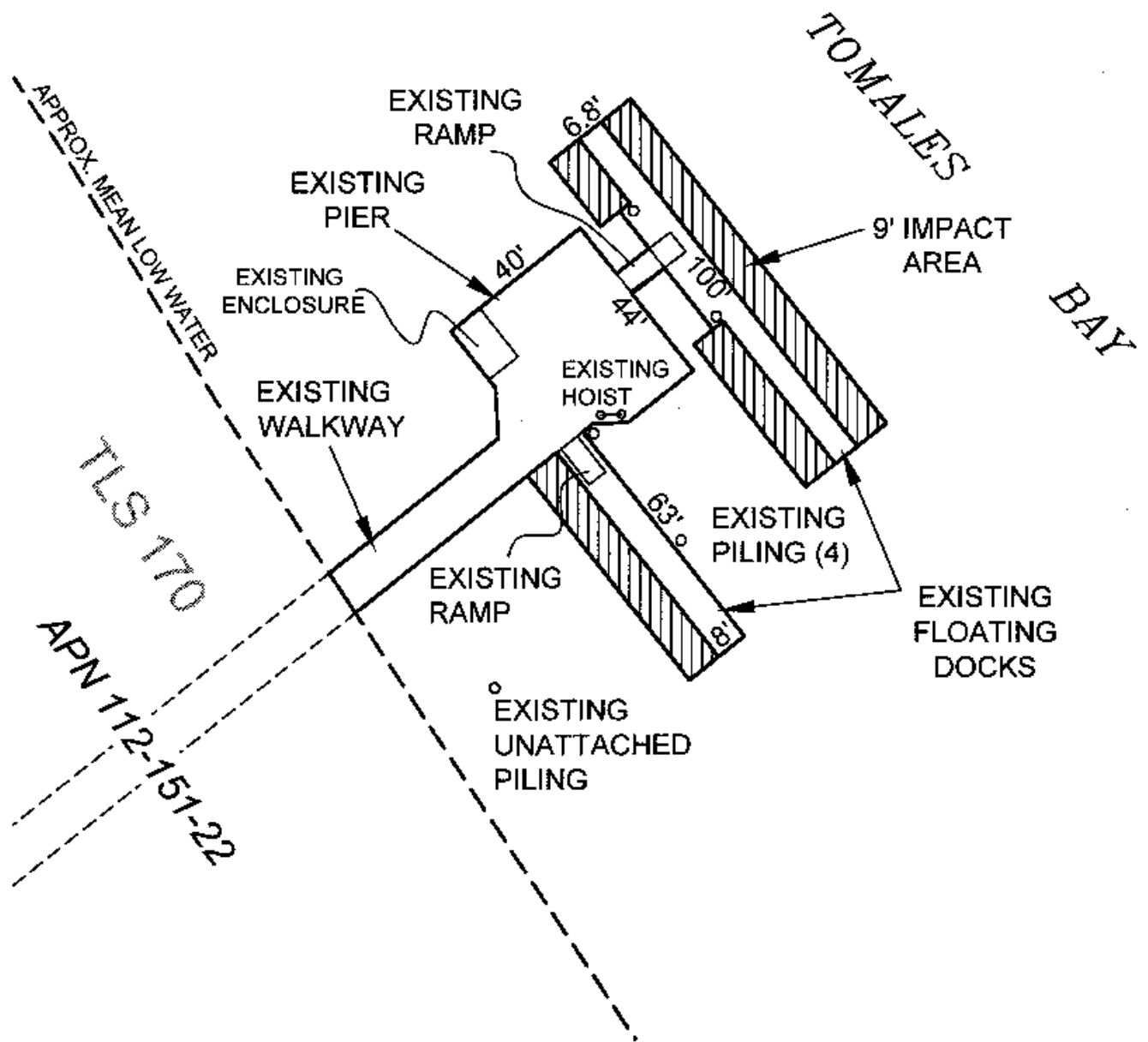
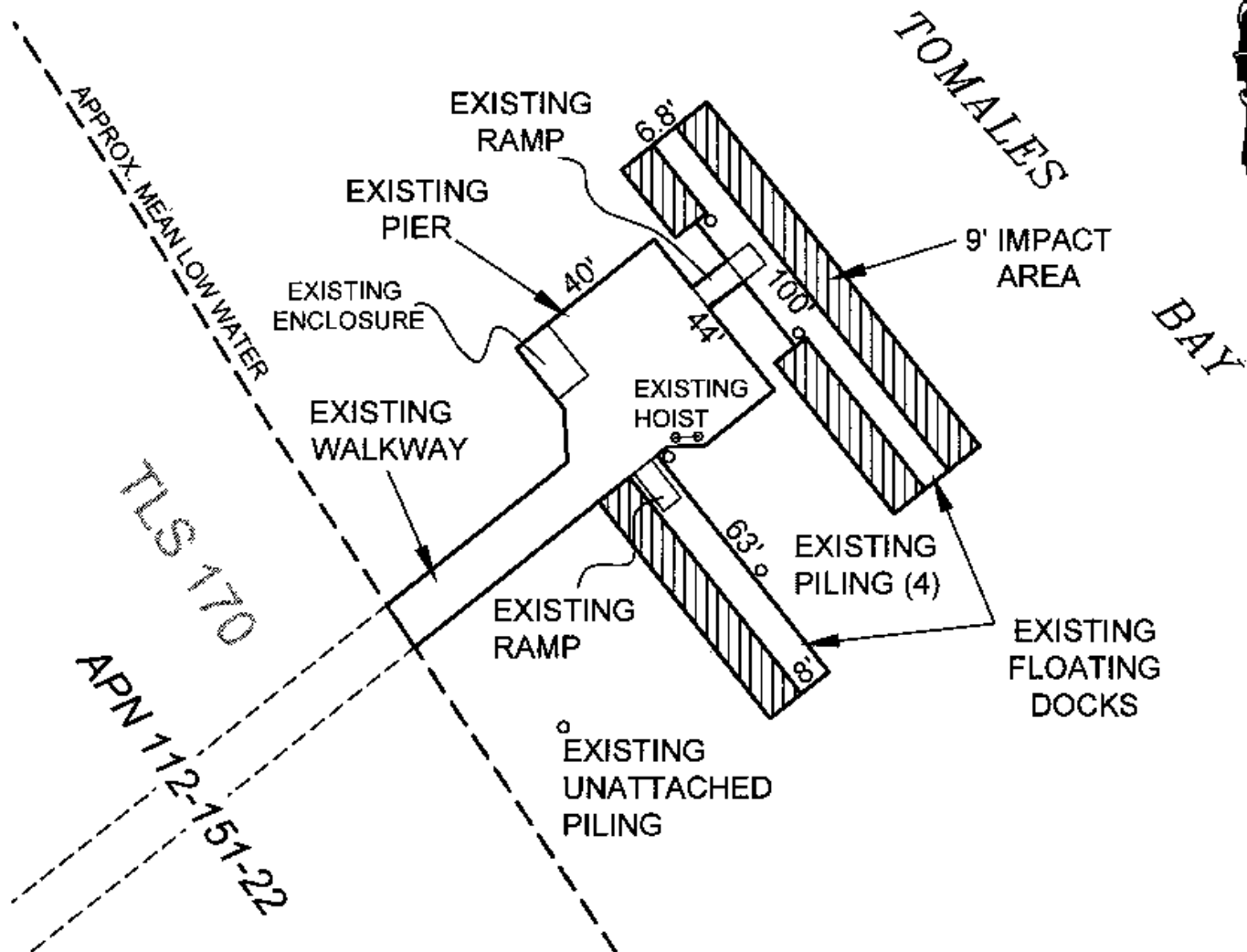


EXHIBIT A



NO SCALE

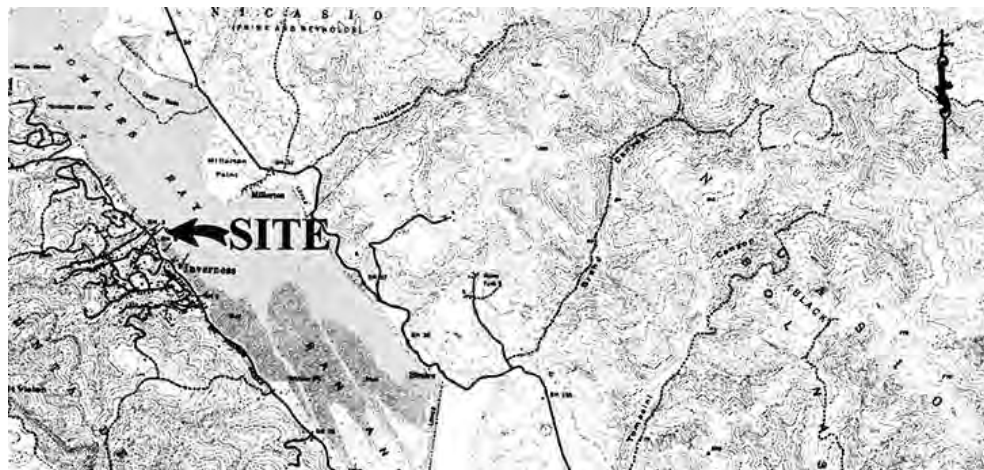
SITE



TOMALES BAY AT INVERNESS, MARIN COUNTY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 7957.1
INVERNESS YACHT CLUB
APN 112-151-22
GENERAL LEASE-
RECREATION USE
MARIN COUNTY



TS 01/03/17